

REMARKS/ARGUMENTS

The following comments are presented in an earnest effort to advance the case to issue without delay.

Claims 1-5 were rejected under 35 U.S.C. § 103(a) as unpatentable over US Patent 5,641,495 (Jokura et al.) in view of US Patent 6,180,121 (Guenin et al.). Applicants traverse this rejection.

Fragrance ingredients when formulated into personal care compositions often lose intensity and they change character with time. One factor responsible for these changes is oxidative degradation. Terpenoids are often included within fragrances. These chemicals are oxidatively sensitive. There is a need for an agent that will prevent oxidative breakdown of the terpenoids.

Applicants have found that salts of malonic acid are effective stabilizers of terpenoids. Malonate salts are particularly useful in preventing oxidation of unsaturated chemical structures.

Jokura et al. disclose a skin cosmetic requiring a combination of three elements. These are a ceramide (A), a dicarboxylic acid (B) and a salt of a dicarboxylic acid (C). This combination and each of the ingredients separately are reported useful for their excellent moisturizing effect. See the Abstract and column 3 (lines 51-52 and 57). Malonic acid is listed among eight other dicarboxylic acids. See column 3, lines 33-37.

Unlike the present invention, Jokura et al. is not concerned with the problem of fragrance component instability, and particularly that of terpenoids. The only concern of

the reference is to provide sufficient moisturizing effect while avoiding excessive skin irritation. Absent any appreciation of the problem, the reference could not possibly suggest a solution.

The term fragrance or perfume is mentioned only once in the reference. See column 5, line 33. "Perfumes" is the very last generic adjunct component among a long list of other possible components (e.g. inorganic salts, viscosity regulating agents, preservatives, UV absorbers, colorants and medicinal components). There is no mention of perfume concentration or any materials which might constitute the perfumes.

None of the Examples include any perfume, either generically or specifically. Neither do any of the Examples itemize a malonic acid or salt thereof as representative of the dicarboxylic acids forming the basis of the reference.

Anyone skilled in the art seeking to stabilize terpenoid ingredients of perfumes or fragrances would not be given the faintest hint in Jokura et al. of any advantage in a combination of malonate and terpenoid.

Guenin et al. was introduced by the Examiner as teaching fragrance enhancing compositions. These were identified as including terpenoids such as d-limonene, citral and geraniol. Focus was also placed on the exemplary fragrance noted as Deo-Key™.

Guenin et al. avers an extended series of objects addressed by the invention. See column 1 (line 62) bridging to column 2 (line 15). Among those objects or problems are to control malodor, improve fragrance efficiency (i.e. reduce the amount of material), limit irritation and enhance masking ability against underarm odor. None of the objects of the invention are directed at combating oxidative instability.

Apparently Guenin et al. is cited by the Examiner merely to demonstrate that terpenoids are fragrance components and that they are present at applicants' claimed concentrations in fragrances.

A combination of Jokura et al. in view of Guenin et al. would not render the instant invention obvious. Neither of the references is concerned with the problem of oxidative instability of fragrance components, and certainly not of terpenoids. Applicants cannot see how anyone skilled in the art focusing on the oxidation problem would arrive at a malonate salt to solve that problem. The term "perfume" is given a single mention in the primary reference. None of the Examples list perfume among the formula materials. Indeed, Jokura et al. does not even exemplify a malonate salt containing formula. There simply is no juxtaposition or relationship between perfumes and malonates in the primary reference. Guenin et al. does not remedy these deficiencies. The reference simply stands for the proposition that perfumes or fragrances can contain terpenoids. There is neither teaching nor suggestion nor incentive for fortifying terpenoid fragrance compositions with a malonate anti-oxidative agent. For all these reasons, a combination of Jokura et al. in view of Guenin et al. would not render the instant invention obvious.

Claims 1-3 and 5 were rejected under 35 U.S.C. § 103(a) as unpatentable over US Patent application No. 2003/0224023 (Faryniarz et al.) in view of US Patent 6,180,121 (Guenin et al.). Applicants traverse this rejection.

Faryniarz '023 has the stated objective to control and even eliminate the signs of aging. These signs were particularly identified as fine lines, wrinkles, sagging skin, poor tone and age spots. See paragraph [0010]. The objective was achieved through the use of certain types of malonate salts.

Unlike the present invention, the reference is absolutely silent with respect to the problem of fragrance component instability. Most particularly, the reference is silent about the problem of terpenoids and their oxidative instability. Absent an appreciation of this problem, it cannot be seen how anyone skilled in the art would arrive at malonates to solve the problem. Further, Faryniarz '023 mentions fragrances or perfumes in only the briefest form. See page 3, paragraph [0054] listing "fragrances" as one of several items that "may also be included" in the compositions. Quite clearly, "fragrances" are optional among the eight Examples. Only one (i.e. Example 8) includes a fragrance. Thus, there is no reported connection between malonates and fragrances which would suggest that the malonates could benefit the latter.

A combination of Faryniarz '023 in combination with Guenin et al. would not render the instant invention obvious. Neither of the references teaches, suggests or even hints that terpenoid containing fragrances could be stabilized against degradative oxidation through use of malonates. Indeed, these references fail to even suggest that fragrances have an oxidative stability problem. Absent any suggestion of the problem, those skilled in the art would have no incentive to look within these references for a solution to that problem.

Although Faryniarz '023 highlights malonates, these materials are only presented in the context of improving skin properties, particularly combating the signs of aging. Nothing is mentioned with respect to malonates having any ability to inhibit oxidation of any oxidatively sensitive formulation components.

Guenin et al. merely informs those skilled in the art that terpenoids are often components of fragrances. Yet this reference says nothing about the stability or instability of terpenoids. There also is no suggestion to incorporate with the terpenoids

any substance to maintain stability. In summary, anyone skilled in the art seeking to solve the problem of unstable fragrances would not be taught to utilize malonates to solve the problem. A combination of Faryniarz '023 in view of Guenin et al. therefore would not render the instant invention obvious.

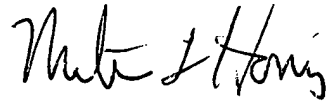
Claims 1-3 and 5 were rejected under 35 U.S.C. § 103(a) as obvious over US Patent application No. 2003/0224027 (Faryniarz et al.) in view of US Patent 6,180,121 (Guenin et al.). Applicants traverse this rejection.

Faryniarz '027 has essentially the same disclosure and deficiencies as Faryniarz '023. The primary reference is concerned with eliminating the signs of aging. Malonates are utilized to achieve this objective. Fragrances are mentioned as optional components but may be used with malonates. In other words, the fragrances may complement a malonate containing formulation. Yet there is no suggestion of any chemical interaction between these materials. The reference is devoid of any suggestion that malonates could prevent degradation of terpenoids or generically of fragrances.

Guenin et al. does not remedy the basic deficiencies of the primary reference. The only contribution of Guenin et al. is to disclose that terpenoids can be components of fragrances. There is no teaching or suggestion in this reference that terpenoids or even fragrances have instability. Neither is there any suggestion that stabilizing agents are either necessary or desirable for combination with fragrance components. Based on these considerations, those skilled in the art would have no incentive to combine malonates with oxidatively unstable fragrance components to achieve the improved result of the present invention.

In view of the foregoing amendment and comments, applicants request the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Milton L. Honig". The signature is written in a cursive, flowing style.

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